

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ANTHONY LEE TOTTEN, Nos. C-05-1675 TEH (PR)
C-05-1965 TEH (PR)
Petitioner, C-07-5974 TEH (PR)

v. ORDER DENYING CERTIFICATE OF APPEALABILITY

A. KANE, Warden, et. al.,

(Doc #11)

On September 25, 2008, the Court denied Petitioner's applications for a writ of habeas corpus under 28 U.S.C. § 2254 challenging the California Board of Parole Hearings' (BPH) January 27, 2003, June 29, 2004 and November 27, 2007 decisions to deny him parole. Doc. #9.

Petitioner filed a notice of appeal, which the Court now construes as a request for a Certificate of Appealability (COA) under 28 U.S.C. § 2253(c) and Federal Rule of Appellate Procedure 22(b). See Hayward v. Marshall, 603 F.3d 546, 552-56 (9th Cir. 2010) (en banc) (COA required regardless of whether state decision to deny release from confinement is administrative or judicial).

1 Petitioner's request for a COA (Doc. #11) is DENIED
2 because Petitioner has not made "a substantial showing of the denial
3 of a constitutional right." 28 U.S.C. § 2253(c)(2). Nor has
4 Petitioner demonstrated that "reasonable jurists would find the
5 district court's assessment of the constitutional claims debatable
6 or wrong." Slack v. McDaniel, 529 U.S. 473, 484 (2000).

7 The Clerk shall forward to the Court of Appeals the case
8 file with this Order. See United States v. Asrar, 116 F.3d 1268,
9 1270 (9th Cir. 1997).

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IT IS SO ORDERED.

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14 DATED 07/12/10



THELTON E. HENDERSON
United States District Judge

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